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IN RE: ETHICON, INC.

PRODUCTS LIABILITY

LITIGATION

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CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

VIDEOTAPED DEPOSITION OF:

PRICE ST. HILAIRE

VOLUME 2

Thursday, July 12, 2013; 9:12 a.m.

Reported By:

Cathy A. Wood, RMR, RPR

CSR No. 2825

1 preparation for this deposition he's being instructed
2 not to answer 'cause it's attorney-client or work
3 product?

4 MS. MAIMBOURG: Right.

5 BY MR. MIRACLE:

6 Q Have you ever been deposed before --

7 A I have not.

8 Q -- this deposition?

9 A I have not.

10 Q Are you familiar with the term litigation hold,
11 Mr. St. Hilaire?

12 A Uh, vaguely, yes.

13 Q Okay. And how is it you're familiar with that
14 phrase?

15 A Just through my career I've heard litigation
16 hold, uh, around, uh, the company says you have to hold
17 on to documents or not destroy documents, that's the
18 context.

19 Q And why is it they're telling you, to your
20 understanding, not to destroy documents or to hold on to
21 data or documents?

22 A So I can use example within my current employ,
23 it's because of either pending or current litigation and
24 they want to make sure documents are held.

25 Q All right. And during your time with -- with

1 Ethicon, do you recall being made aware of any
2 litigation holds?

3 A I don't recall specifically.

4 Q How about generally, as we sit here today, do
5 you recall ever being -- hold on just a second.

6 A Sorry.

7 Q Ever being made aware that there was a
8 litigation hold and that you shouldn't destroy or
9 otherwise erase emails, documents, Power Points,
10 whatever the case may be?

11 A I don't have a specific recollection, but it's
12 reasonable in the time that I was there that -- that a
13 litigation hold notice would have -- would have come to
14 me, so I don't remember specifically what or when.

15 Q So you're saying in the eight or nine years you
16 were with Gynecare or Ethicon, it's reasonable to assume
17 that you would have been subject to a litigation hold at
18 some point during that time frame?

19 A It's reasonable. I just don't remember
20 specifically when.

21 MR. MIRACLE: Need 1500.

22 MR. SMITH: This is marked as T2083.

23 THE WITNESS: Thank you.

24 BY MR. MIRACLE:

25 Q I'm going to give you a second to look at that.

1 A Okay.

2 Q Okay. Have you had a chance to look at that?

3 A Yes, at the time of this e-mail, just to be
4 clear, I wasn't in Marketing at the time, I was in the
5 sales force.

6 Q Sure.

7 (The above-referred to document was marked
8 Deposition Exhibit No. T2083 for identification
9 by the Court Reporter, and a copy is attached
10 hereto.)

11 BY MR. MIRACLE:

12 Q I guess my question to you would be now I have
13 shown you this document, you've had a chance to look at
14 it, do you recall ever seeing this particular document,
15 this particular email?

16 A I certainly don't recall this specific email.

17 MR. MIRACLE: What did we mark this?

18 MR. SMITH: T2083.

19 BY MR. MIRACLE:

20 Q And, just for the record, the document we're
21 talking about is a May 22nd, 2003, email which purports
22 to be a preservation notice that was issued by J & J Law
23 Department, and it's been marked as T2083, and it's your
24 testimony that you don't recall seeing this.

25 A Not specifically, okay.

1 Q Do me a favor, look down towards the bottom of
2 the first page below where it says May 22nd, 2003, do
3 you see that?

4 A Yes, I do, sir.

5 Q Could you read the paragraph below that into
6 the record?

7 A Sure. "Hold notice for Kandell versus Ethicon,
8 Inc., et als. Ethicon, Inc. has been named in a lawsuit
9 arising out of the alleged use of TVT. In connection
10 with this matter, it is vital to preserve all documents
11 relating in any way to the below-listed subject matters
12 until contrary written notice is received from the J & J
13 Law Department. Failure to preserve these materials
14 could result in court-imposed penalties or sanctions on
15 both the company and/or individual employees."

16 Q If you flip the page and read the first page on
17 the next page, please.

18 A Starting from, "Do not discard"?

19 Q Please.

20 A "Do not discard, destroy or alter in any
21 way" -- "in any way any of the documents, electronic or
22 paper, described below. Please ensure that these
23 instructions are followed."

24 Q As we sit here today, do you recall, after
25 reading that to help refresh your memory, on receiving

1 any specific litigation hold notice or a preservation
2 notice during your employment with Ethicon?

3 A Again, I don't -- I don't specifically remember
4 a specific preservation hold. Do I remember these
5 coming across, it's reasonable that these have come
6 across, but I don't remember a specific one.

7 Q All right.

8 A And I certainly don't remember this one
9 specifically.

10 Q And certainly as an employee for either -- for
11 Ethicon, you would follow the letter and the intent of
12 any preservation notice or hold notice that would come
13 across your email account or across your desk, right?

14 A Certainly, to the best of my ability,
15 absolutely.

16 Q And as we sit here today, do you recall ever,
17 aside from these hold notices, do you recall ever having
18 occasion to or -- or necessarily having done -- erased
19 emails you've either sent or received from the database
20 or from -- from your hard drives or your computers?

21 A Not to my recollection.

22 Q Would you have ever had any need or necessity
23 to do so?

24 A Not to my recollection.

25 Q And were you ever directed by anyone within the

1 specifically.

2 Q You could have done it, you just don't
3 remember?

4 A Sure, yeah.

5 Q As we sit here today, you certainly don't
6 remember proactively destroying any of the documents
7 that would have been subject to this specific
8 preservation --

9 A No, sir.

10 Q -- notice?

11 And to that extent, when you left the company
12 in 2008, it would be your assumption that any of the
13 documents in the categories we have read from this
14 preservation notice would have been either in your
15 computer, in your hard drive, in your phone, any of the
16 things you handed back in at the time of your
17 separation --

18 A That's correct.

19 Q -- from the company; is that right?

20 A That's correct.

21 Q So in any event, the fact that we have been
22 produced nothing that was in your computer or hard drive
23 or anything else that you've submitted to the company on
24 your separation with the company in 2008 --

25 A Uh-huh.

1 Q -- certainly in your time with the company for
2 eight or nine years, there would be more than zero
3 documents that should have been produced, is that an
4 accurate assessment?

5 A I think that's reasonable.

6 MS. MAIMBOURG: Objection.

7 BY MR. MIRACLE:

8 Q But as far as you know, those documents or
9 emails or data or emails or any of the things that are
10 listed in this preservation notice that would apply to
11 yourself, those would have disappeared after your
12 separation from the company?

13 MS. MAIMBOURG: Objection.

14 THE WITNESS: I'm sorry, I didn't understand
15 your question.

16 BY MR. MIRACLE:

17 Q Those would have disappeared after your
18 separation from the company?

19 MS. MAIMBOURG: Objection to the term
20 disappear.

21 BY MR. MIRACLE:

22 Q That those were present when you left?

23 A So I tendered my laptop, and I left everything
24 in my office. So everything was on my laptop when I
25 separated from the company. What happened after I left

1 the company with the laptop, I can't speak to or
2 speculate to.

3 Q Do you recall in 2008 when you left the company
4 what the procedure was, or if there was a procedure, for
5 turning in all the company materials, computers,
6 laptops, tablets, phones whatever the case may be?

7 A I don't remember the specific procedure. To
8 the best of my recollection, I turned in my -- my laptop
9 and my badge and my AMEX and things of that nature to my
10 supervisor. So I don't remember the specific procedure,
11 but -- but that's -- to my recollection, that's what I
12 did.

13 MR. MIRACLE: Let's take a five-minute break.
14 We may be pretty close to being done.

15 THE VIDEOGRAPHER: Videotape deposition off
16 record at 12:10 p.m.

17 (Brief recess was taken.)

18 THE VIDEOGRAPHER: Videotape deposition is now
19 returning to record at 12:23 p.m.

20 BY MR. MIRACLE:

21 Q Mr. St. Hilaire, over the last two days of
22 giving this deposition, uh, you stated several times
23 that it's been -- in all fairness to you, it's been
24 awhile since you've worked for Ethicon, it's been four
25 to five years since you separated from the company; is